

ORIGINAL

FORMAL COMPLAINT



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Arizona Corporation Commission

DOCKETED

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Attorneys for Complainants

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

SW-01428A-08-0234

IN THE MATTER OF THE FORMAL
COMPLAINT OF WESTCOR/GOODYEAR,
L.L.C. and GLOBE LAND INVESTORS,
L.L.C. AGAINST LITCHFIELD PARK
SERVICE COMPANY

DOCKET NO. SW-01428A-08-

FORMAL COMPLAINT

Pursuant to the provisions of A.R.S. §§ 40-246 and 40-248, and A.A.C. R14-3-106(L), Westcor/Goodyear LLC ("Westcor") and Globe Land Investors, L.L.C. ("Globe"), hereby file their formal complaint ("Complaint") against Litchfield Park Service Company ("LPSCo"), and request that the Arizona Corporation Commission ("Commission") issue an order providing the relief requested herein.

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I. PARTIES AND JURISDICTION

1. Westcor/Goodyear, L.L.C. ("Westcor") and Globe Land Investors, L.L.C. ("Globe") are Arizona and Delaware limited liability companies which have worked together in the development of Estrella Falls, a mixed use land development located in the City of Goodyear. Westcor is the master developer of public and private infrastructure for Estrella Falls, and Westcor and Globe (collectively "Westcor/Globe") each are responsible for a share of the cost of planning and constructing improvements necessary for the provision of water and wastewater service to that project.

2. Estrella Falls is located within the area for which Litchfield Park Service Company ("LPSCo") is responsible for providing water and wastewater treatment service under a Certificate of Convenience and Necessity ("CC&N") issued by the Arizona Corporation Commission ("the Commission"). Under its CC&N, LPSCo provides water and wastewater reclamation services to approximately 15,000 customers in the Cities of Goodyear, Avondale, and Litchfield Park, including Westcor/Globe.

3. LPSCo is a public service corporation within the meaning of Article XV of the Arizona Constitution. As a public service corporation operating under the laws of the State of Arizona, LPSCo is regulated by the Commission. LPSCo is a wholly owned subsidiary of Algonquin Resources of America, Inc., which is in turn a wholly owned subsidiary of Algonquin Power Income Fund, a Canadian open-ended investment trust.

4. The Commission has jurisdiction over the subject matter of this Complaint. Under the Arizona Constitution, the Commission is granted "full power" to "make reasonable rules, regulations and orders, by which [public service] corporations shall be governed in the transaction of business within the State."¹ Pursuant to its regulatory powers, the Commission has the authority to make orders respecting health and safety, as

¹ Ariz. Const. Art. 15, § 3.

1 well as orders respecting comfort, convenience, adequacy, and reasonableness of service.²
2 The Commission is also charged with the authority to take action to avoid discrimination
3 between parties, localities, or classes of services as to rates, charges, services, and
4 facilities.³

5 5. The Commission also has jurisdiction over this matter pursuant to the
6 express provisions of the Commercial Wastewater Facilities Agreement between LPSCo
7 and Globe, dated June 1, 2001 (“the 2001 Commercial Agreement”). The 2001
8 Commercial Agreement, a copy of which is attached as Exhibit “A,” states that all rights
9 and obligations between LPSCo and Westcor/Globe, including those regarding
10 wastewater utility service, are “subject to the rules and regulations of the Commission and
11 all applicable rates, fees, charges, and tariffs of [LPSCo] as approved by the
12 Commission...”⁴

13 II. GENERAL ALLEGATIONS

14 A. Estrella Falls

15 6. Estrella Falls is a 330-acre master planned mixed-use land development
16 located north of Interstate 10 between Pebble Creek Parkway and Bullard Avenue in the
17 City of Goodyear. Three hundred of the 330 acres are located north of McDowell Road
18 and within the LPSCo CC&N service area. A copy of the Conceptual Master Plan for
19 Estrella Falls is attached as Exhibit “B.”

20 7. The 2001 Commercial Agreement requires two phased payments for
21 treatment capacity to serve the 300 commercial acres located within the LPSCo CC&N
22 service territory. Phase I capacity payments were intended to secure wastewater service
23 for Phase I of Estrella Falls, a portion of a 66-acre retail “power center” on the northeast
24 corner of McDowell and Pebble Creek Parkway. This power center will consist of

25 ² A.R.S. §§ 40-202(A), 40-321, 40-322.

³ A.R.S. § 40-334.

26 ⁴ 2001 Commercial Agreement at Section V.B.

1 500,000 square feet of retail space, including major tenants, shops, and pad buildings plus
2 two hotels. The Phase I capacity payments provided Westcor/Globe the right to receive,
3 and LPSCo the obligation to provide, wastewater-treatment service for up to 60,000
4 gallons of average daily flow (30 acres x 2,000 gal average daily flow per acre).

5 8. The Phase II capacity payment is intended to secure wastewater service for
6 Phase II of Estrella Falls - the balance of the power center development, a regional mall
7 known as the Estrella Falls regional shopping center (which Westcor/Goodyear intends to
8 open in 2010), along with additional commercial developments. The Phase II capacity
9 payment provides Westcor/Globe the right to receive, and LPSCo the obligation to
10 provide, wastewater treatment-service for up to 540,000 gallons of average daily flow
11 (270 acres x 2,000 gal average daily flow per acre).

12 **B. LPSCo's CC&N Expansion**

13 9. On December 8, 2000, LPSCo applied in Docket Nos. W-01427A-00-1004
14 and SW-01428A-00-1004 to extend its service territory to include Section 32, Township 2
15 North, Range 1 West, G&SRB&M, Maricopa County, Arizona ("Section 32"), an area
16 totaling 640 acres, which includes Estrella Falls. Under its CC&N and Arizona law,
17 LPSCo is authorized and required to provide water and wastewater treatment services to
18 Estrella Falls.

19 10. On January 15, 2002, in Decision No. 64358, the Commission approved
20 LPSCo's requested CC&N expansion in Section 32. The Commission noted that LPSCo
21 had entered into main extension agreements with developers to build three new wells and
22 was in the process of constructing a new 4.1 million gallons per day ("mgd") water
23 reclamation facility in Palm Valley (the "Palm Valley Facility") to be used by "existing
24 customers and future customers in the expansion area."¹ The Commission explicitly
25 recognized that future customers within the expansion area would include a regional mall

26 ¹ Decision No. 64358 at 3:17-21.

1 and a mixed-use commercial development.² The Commission cited LPSCo's expectation
2 that the regional mall would be "be built in seven to eight years."³ The Commission
3 further cited Commission Staff's conclusion that LPSCo could meet "the demands of its
4 existing customers and provide for future growth" with the development of these new
5 wells and the new wastewater facility.⁴

6 **C. The 2001 Commercial Agreement**

7 11. While LPSCO's CC&N application was pending, and in contemplation of
8 its approval by the Commission, Globe Land Developers L.L.C. and LPSCo negotiated
9 and entered into the 2001 Commercial Agreement. Under the terms and conditions of this
10 Agreement, LPSCO agreed to provide wastewater-treatment services to and within
11 Estrella Falls.⁵

12 12. At the time the 2001 Commercial Agreement was being negotiated, LPSCo
13 did not have sufficient wastewater treatment capacity to serve Estrella Falls and the
14 balance of the Section 32 expansion area being considered by the Commission.
15 Consequently, LPSCO agreed in the 2001 Commercial Agreement to construct a new
16 water reclamation facility, the Palm Valley Facility.⁶ Consistent with LPSCO's
17 representations to the Commission, and as noted in Decision 64358, this new 4.1 mgd
18 water reclamation facility was to be used by "existing customers and future customers in
19 the expansion area."⁷ The Palm Valley Facility is located within Section 32 and
20 approximately one mile east of Estrella Falls.

21 13. Under the 2001 Commercial Agreement, Globe agreed to provide funding
22 for its proportionate share of the Palm Valley Facility and for the construction of certain
23

24 ² *Id.* at 3:10-13.

³ *Id.* at 3:16.

⁴ *Id.* at 4:16-19.

⁵ Exhibit A, p. 21.

⁶ Exhibit A, p. 3, par. I(B)(1)

⁷ Decision No. 64358 at 3:17-21.

1 off-site wastewater infrastructure improvements.⁸ Globe agreed to advance six separate
2 payments totaling \$287,640 for the treatment capacity needed to serve Phase I of the
3 Estrella Falls development and \$2,588,760 for the treatment capacity needed to serve
4 Phase II. The Phase I capacity payments were paid when due and the Phase II capacity
5 payment was to be paid at the start of construction for Phase II of Estrella Falls.

6 14. Under a related Residential Wastewater Facilities Agreement ("2001
7 Residential Agreement"), LPSCo also agreed to provide wastewater services sufficient to
8 serve the adjacent residential development at Estrella Falls. In exchange, Globe agreed to
9 advance an additional \$2,462,198 to LPSCo to partially fund LPSCo's new Palm Valley
10 facility.

11 15. Since the execution of the 2001 Commercial Agreement, Westcor and
12 Globe have agreed that each would be responsible for funding a portion of the facility
13 advances and offsite infrastructure improvements required under the Commercial and
14 Residential Agreements.

15 16. Westcor/Globe have provided all the facility advances to LPSCo required by
16 the 2001 Residential Agreement. Westcor/Globe have also made the six Phase I capacity
17 payments to LPSCo required under the 2001 Commercial Agreement.

18 17. In furtherance of the 2001 Commercial Agreement and the 2001 Residential
19 Agreement, LPSCo and Westcor/Globe have also executed a series of Line Extension
20 Agreements, by which Westcor/Globe have constructed and contributed a portion of the
21 backbone facilities required to support service to the Estrella Falls project at the Palm
22 Valley plant.

23 18. Six years have now passed since January 2002 when the Commission issued
24 Decision No. 64358 expanding LPSCo's CC&N to include Section 32. The Commission
25 expected that, based on LPSCo's representations to the Commission, a regional mall

26 ⁸ *Id.*

1 would be built within seven to eight years, or 2008 to 2009. Consistent with those
2 expectations, in late 2007 Westcor/Globe were ready to begin construction of the balance
3 of the power center and the regional mall, which triggered their obligation under the 2001
4 Commercial Agreement to make the Phase II capacity payment. However, when
5 Westcor/Globe tendered the Phase II payment of \$2,588,760, LPSCo refused the payment,
6 demanding instead that Westcor/Globe fund an entirely different water-reclamation
7 facility on Sarival Road, or another substantial expansion of the Palm Valley Facility,
8 along with other offsite improvements, at an estimated cost of approximately \$14.5
9 Million. In February 2008, Westcor announced a one-year delay for the Estrella Falls
10 mall, in part because of concerns about LPSCo's ability to provide wastewater service.

11 **D. LPSCo's 2005 Application to Expand its CC&N**

12 19. On January 12, 2005, LPSCo applied in Docket No. SW-01428A-05-0022
13 for authority to add approximately 3.5 sections to its CC&N, which would ultimately
14 include approximately 10,000 new units. According to the February 10, 2006 Staff
15 Report, LPSCo stated that it would serve these new customers by adding 4.1 mgd in
16 capacity to its existing 4.1 mgd Palm Valley Facility. LPSCo attached a developer
17 agreement to its application, whereby new developers would fund this expansion at a cost
18 \$4.69 per gallon per day based upon an average residential demand of 320 gallons per day
19 (an "Equivalent Residential Unit" or "ERU"), equaling \$1,500 per ERU. At page 2 of the
20 agreement LPSCo stated: "All costs of expanding the ... facilities in excess of the \$1,500
21 per ERU shall be funded by the Company."

22 20. LPSCo also attached an engineering report to its 2005 application, which
23 noted, at pages 7-8, that LPSCo had originally planned to treat 1.037 mgd of flows from
24 Sections 18 and 19 at a planned 4.2 mgd treatment facility to be built at Sarival and
25 McDowell Roads (the "Sarival Road Plant"). Instead, these flows were redirected by
26 LPSCo to the existing 4.1 mgd Palm Valley Facility. By comparison, the Estrella Falls

1 development secured its required capacity in 2001, is located in the section the Palm
2 Valley Facility was intended to serve (Section 32), is just a mile away, and total expected
3 flows will be only 0.66 mgd.

4 **E. LPSCo's Hook-Up Fee Application**

5 21. On July 5, 2006, LPSCo filed an application in Docket No. SW-01428A-06-
6 0444 for authority to charge wastewater hook-up fees for future CC&N expansion areas.
7 LPSCo estimated the cost to be \$7.60 per gallon or \$2,450 per ERU to provide wastewater
8 treatment services to all new service laterals.

9 22. While LPSCo's hook-up fee application was pending, the Commission
10 received numerous complaints about an odor problem at the Palm Valley Facility.

11 23. On December 5, 2006, in Decision No. 69165, the Commission approved
12 the wastewater hook-up fee tariff for all new customers in LPSCo's entire service
13 territory, including Section 32, in the amount of \$2,450 per service lateral, based on an
14 ERU of 320 gallons per day. The Commission specified that these charges were
15 applicable to all new service laterals established after the effective date of this tariff.
16 However, the Commission also ordered that the hook-up fee "not become effective until
17 the Phase 1 carbon absorption unit has been installed and is operating and the odor
18 problem has been resolved as verified by Commission Staff."

19 24. On January 4, 2007, LPSCo filed Compliance Tariffs for the newly
20 approved wastewater hook-up fee.

21 25. After installing certain equipment, LPSCo filed Odor Compliance Reports
22 on January 22, 2008 and January 30, 2008. In the Odor Compliance Reports, LPSCo
23 stated that it had undertaken corrective measures and fixed the odor problem at the Palm
24 Valley Facility.

25 26. On March 5, 2008, the Commission Staff visited the Palm Valley Facility
26 and subsequently issued a report on March 21, 2008, stating that LPSCo has resolved the

1 odor problem at the Palm Valley Facility and authorizing LPSCo to institute the hook-up
2 fee tariff as to all new service laterals. The hook-up fee tariff became effective on April 1,
3 2008.

4 27. If, for any reason, the Commission should determine that LPSCO is not
5 bound by the 2001 Commercial Agreement to accept the sum of \$2,588.760 in full
6 satisfaction of Westcor/Globe's required Phase II capacity payment, then Westcor/Globe
7 should not be required to contribute an amount greater than the charge required by the
8 hook-up fee tariff, because all rights and obligations between LPSCo and Westcor/Globe,
9 including those regarding wastewater utility service, are "subject to the rules and
10 regulations of the Commission and all applicable rates, fees, charges, and tariffs of
11 [LPSCo] as approved by the Commission..."⁹

12 **F. LPSCo's Refusal to Serve**

13 28. In early 2006, Westcor/Globe began submitting engineering drawings to
14 LPSCo in conformance with the Estrella Falls Wastewater Master Plan approved by
15 LPSCo in October 2006 and consistent with the Goodyear Planned Regional Center
16 Wastewater Master Plan approved by LPSCo in July 2000. These drawings detailed the
17 Estrella Falls facilities and the onsite wastewater collection system for the delivery of
18 wastewater from Estrella Falls to the Palm Valley Facility. LPSCo reviewed and
19 commented upon those plans in a series of communications with Westcor/Globe during
20 2006 and the first half of 2007, but at no time did LPSCo ever suggest to Westcor/Globe
21 that the Palm Valley facility (which Westcor/Globe had paid for in part) had inadequate
22 capacity to serve the Estrella Falls project.

23 29. Then, in late September 2007, after construction had commenced on the
24 power center, LPSCo claimed, for the first time, that Westcor/Globe could no longer rely
25 upon the treatment capacity it had been promised in the Palm Valley Facility. When

26 ⁹ Exhibit A, p. 19.

1 Westcor/Globe tendered the Phase II capacity payment of \$2,588,760 as required by the
2 2001 Commercial Agreement upon the commencement of construction, LPSCo rejected
3 that tender. LPSCo demanded instead that Westcor/Globe fund another water-reclamation
4 facility on Sarival Road, west of Estrella Falls. LPSCo also demanded that
5 Westcor/Globe contribute an additional \$3,000,000 for the cost of constructing a force
6 main from the Palm Valley Facility to the new Sarival Road plant. Westcor/Globe
7 estimate that LPSCo's new monetary demands total approximately \$14.5 Million for the
8 construction of these additional facilities.

9 30. Section I.B.2 of the 2001 Commercial Agreement provides as follows:

10 It is understood by the Owner that the Company may, at its
11 option and in its sole discretion, build or install facilities or
12 require Owner to build or install facilities, larger than those
13 described in Exhibits C and E. The additional cost of those
facilities, over and above the cost set forth in Exhibit C and
E, shall be borne by the Company or allocated to another
development.

14 The new Sarival Road plant and the force main that LPSCo now plans to build are
15 "facilities, larger than those described in Exhibits C and E," and, as such, must be paid for
16 by LPSCo or other developers.

17 31. Despite LPSCo's demand that they fund new facilities not contemplated by
18 the 2001 Commercial Agreement, Westcor/Globe believe that LPSCo currently has
19 adequate capacity at the existing Palm Valley Facility to treat all wastewater flows
20 attributable to Phase II of the Estrella Falls development, as LPSCo had committed to
21 provide in the 2001 Commercial Agreement.

22 32. However, upon information and belief, after June 1, 2001, LPSCo entered
23 into additional agreements with other users, through which it allocated capacity within the
24 Palm Valley Facility to which Westcor/Globe had priority. Westcor/Globe further allege,
25 on information and belief, that if LPSCo in fact does not have sufficient capacity in the
26

1 Palm Valley Facility for Phase II of Estrella Falls, it is only because it provided other
2 users treatment capacity that it had already contractually committed to Westcor/Globe.

3 33. As previously alleged, Westcor/Globe tendered the \$2,588,760 Phase II
4 payments to LPSCo, in accordance with the provisions of its 2001 Commercial
5 Agreement. LPSCo rejected Westcor/Globe's payment, refusing to serve Westcor/Globe
6 unless it agreed to pay for the Sarival Road Plant or expanding the Palm Valley Plant.

7 34. Westcor/Globe believes that it is presently required to pay \$2,588,760
8 pursuant to the express provisions of the 2001 Commercial Agreement. However, in an
9 attempt to resolve this dispute in a timely manner, on April 24, 2008, Westcor/Globe
10 tendered \$4,134,375 (270 acres x 2,000 gal/acre x (\$2,450/320 gal)) to LPSCo for the
11 Phase II capacity payment, calculated in accordance with the new hook-up fee tariff after
12 it became effective on April 1, 2008. On April 30, 2008, LPSCo again rejected
13 Westcor/Globe's tender. LPSCo has still not agreed to provide service for Phase II.

14 35. As an alternative form of relief, should the Commission determine that the
15 hook-up fee tariff is applicable to Westcor/Globe as a new service customer, then the
16 amount previously tendered by Westcor/Globe of \$4,134,375 represents the maximum
17 amount that Complainants owe LPSCo for their Phase II capacity payment.

18 **III. WESTCOR/GLOBE'S CLAIMS FOR RELIEF:**

19 **A. Claim 1 - Enforcement of the 2001 Commercial Agreement**

20 36. Westcor/Globe incorporates by reference each allegation contained in
21 Paragraphs 1 through 35 above as though set forth herein.

22 37. A CC&N confers upon its holder an exclusive right to provide the relevant
23 service for as long as the grantee can provide adequate service at a reasonable rate.⁵ Upon
24 a showing that a Certificate holder has failed, after being presented with a demand, to
25

26 ⁵ See James P. Paul Water Company v. Arizona Corporation Commission, 137 Ariz. 426, 429, 671 P.2d 404, 407 (1983).

1 supply service which is reasonable in light of the projected need, the Commission can
2 require the holder of the Certificate to supply the required service.⁶

3 38. Upon information and belief, LPSCo currently has adequate unused capacity
4 in the Palm Valley facility to support Phase II of Estrella Falls. Despite LPSCo's prior
5 representation to the Commission and to Westcor/Globe that capacity for Phase II of
6 Estrella Falls would be provided by the Palm Valley facility, LPSCo has rejected
7 Westcor/Globe's Phase II capacity payment of \$2,588,760. LPSCo also refused to
8 provide service for Phase II unless Westcor/Globe agrees to pay an estimated \$14.5
9 Million toward construction of the Sarival Road Plant and a new force main that will
10 redirect wastewater from the Palm Valley Facility to this new Sarival Road Plant.

11 39. LPSCo has breached the 2001 Commercial Agreement and its duty to serve
12 Westcor/Globe by refusing service unless Westcor/Globe pays an exponentially larger
13 amount to serve Phase II of Estrella Falls. LPSCo is thus failing to provide its promised
14 service at the agreed-upon rate required by the 2001 Commercial Agreement.

15 40. The Commission is authorized to order LPSCo to provide wastewater
16 treatment service to Westcor/Globe in exchange for the \$2,588,760 advance required by
17 the 2001 Commercial Agreement.

18 **B. Claim 2 - Enforcement of LPSCo's Hookup Fee**

19 41. Alternatively, the Commission may determine that LPSCo's recently
20 effective hookup fee is applicable to Westcor/Globe. Therefore, Complainants should not
21 be required to contribute any amount to LPSCo in excess of \$4,134,375, offset by
22 contributed offsite facilities required by LPSCo.

23 42. The Commission is authorized to order LPSCo to accept the hook-up
24 payment from Westcor/Globe required by the hook-up fee tariff and to provide the
25 required wastewater service.

26 ⁶ *Id.*; see also A.R.S. §§ 40-331(a), 40-321(a), 40-322(a).

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A. Finding that Westcor/Globe is obligated to make its Phase II capacity payment to receive wastewater treatment service from LPSCo for Phase II of Estrella Falls.

B. Finding that the amount of the Phase II capacity payment is \$2,588,760;

E. Awarding Westcor/Globe such other relief as the Commission deems proper.

CRAIG A. MARKS PLC
3420 E. Shea Blvd., Suite 200
Phoenix, AZ 85028

By Don P. Martin
Don P. Martin
Edward A. Salanga

-13-

1
2 Original and 13 copies **filed**
3 on May 5, 2008, with:
4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007
8
9 Copy of the foregoing **delivered**
10 on May 5, 2008, to:
11 Mike Gleason, Chairman
12 Arizona Corporation Commission
13 1200 West Washington
14 Phoenix, Arizona 85007
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16 William A. Mundell
17 Commissioner
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11 Copy of the foregoing **mailed**
12 on May 5, 2008, to:

13 Bob Dodds
14 Manager of Infrastructure Division
15 Algonquin Water Services
16 12725 W. Indian School Road
17 Avondale, AZ 85323

18 Jay Shapiro
19 Fennemore Craig PC
20 3003 N. Central Avenue
21 Phoenix, AZ 85012-2913
22 Attorneys for Respondent Litchfield Park Service Company

23 By: Becky Patterson
24
25
26

Exhibit A



ESTRELLA FALLS

Estrella Falls Site Data	
The Market at Estrella Falls	63 acres
500,000 sq.ft. Opening Fall 2008	
Estrella Falls Regional Center	105 acres
1,200,000 sq.ft. Opening Fall 2010	
Peripheral Retail/Mixed Use	162 acres
TOTAL	330 acres

Key Legend

	Retail
	Estrella Falls Regional Center
	Office/ Commercial
	Multifamily/Condominium Residential
	Hotel

Exhibit B

HOLD FOR SECURITY TITLE

When Recorded, return to:
SunCor Development Company
3838 N. Central, Suite 1500
Phoenix, AZ 85012
Attn: Jeffrey V. Romaine

15-23384 pl

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

2001-0525587 06/15/2001 04:09

OSCAR 2 of 136

COMMERCIAL WASTEWATER FACILITIES AGREEMENT

BETWEEN

LITCHFIELD PARK SERVICE COMPANY

AND

GLOBE LAND INVESTORS, L.L.C.

Dated June 1, 2001

60001.00000.35

WASTEWATER FACILITIES AGREEMENT
entered into this ____ day of _____, 2001, by and
between **LITCHFIELD PARK SERVICE**
COMPANY, an Arizona corporation (Company),
and **GLOBE LAND INVESTORS, L.L.C.** Owner,
a Delaware limited liability company (Owner)
(Company and Owner are collectively referred to as
the "Parties").

RECITALS

WHEREAS, Owner is in the process of planning a mixed-use community (to be known as the Goodyear Planned Regional Center) located on certain real property owned by Owner, more particularly described on Exhibit A hereto (the "Development"); and

WHEREAS, the construction of the Development, will be phased and is presently planned to be phased as set forth on Exhibit B hereto; and

WHEREAS, Owner has requested Company to provide wastewater utility service to and within the Development; and

WHEREAS, Company owns and operates a wastewater utility system and holds a certificate of convenience and necessity that authorizes Company to provide public utility water utility service in areas in the immediate vicinity of the Development within Maricopa County, Arizona. Company is willing to provide public utility wastewater service to the Development and desires to provide such service under the terms and conditions described herein; and

WHEREAS, the Company does not presently have wastewater facilities sufficient to serve the Development; and

WHEREAS, under such circumstances the Arizona Corporation Commission's ("Commission") Rules and Regulations permit the Company to require an Advance In Aid of Construction to provide such facilities; and

WHEREAS, Owner is willing to provide funding for the acquisition of additional wastewater treatment capacity and for the construction of certain off-site wastewater infrastructure improvements to allow the extension of such service.

NOW, THEREFORE, it is mutually coveded and agreed by and between the Parties hereto as follows:

I.

Wastewater Facilities

A. Construction of On-Site Wastewater Facilities by Owner.

Owner, or Owner's designated Builder, shall construct, or cause to be constructed, certain on-site wastewater collection, pumping and delivery facilities ("On-Site Wastewater Facilities") in appropriate phases as necessary for Company to provide wastewater utility service within the Development on the terms and conditions set forth below. The On-Site Wastewater Facilities shall be designed and constructed in accordance with plans and specifications approved by Company, as provided below. Owner intends to construct or cause to be constructed the Development and related On-Site Wastewater Facilities in phases as set forth in Exhibit B. On-Site Wastewater Facilities for the first and all subsequent phases of the Development shall be constructed pursuant to separate Main Extension Agreements substantially consistent with this Agreement. It is anticipated that Owner will sell all or a portion of the Development to numerous home builders ("Builder") that will actually construct the On-Site Wastewater Facilities for

60001.00000.35

individual subdivisions. An engineering drawing and an itemized list of the On-Site Wastewater Facilities and the estimated cost thereof for each respective phase of the Development will be attached as exhibits to the Main Extension Agreement as each parcel is developed. The cost of constructing the On-Site Wastewater Facilities for each phase of the Development shall constitute a contribution in aid of construction and shall be non-refundable to the entity designated in the Main Extension Agreement.

B. Off-Site Wastewater Facilities.

The Parties acknowledge and agree that Company does not, at present, have sufficient wastewater treatment capacity available to extend service to the Development, and that certain upgrades and improvements to Company's system are also necessary for Company to safely collect and transport the additional wastewater flows from the Development for treatment and disposal. Therefore, Owner agrees to provide certain funds for the acquisition of wastewater treatment plant capacity and for certain off-site infrastructure improvements, as provided below.

1. Acquisition of Wastewater Treatment Capacity.

Wastewater service will be provided by Company by building a new water reclamation facility. Owner agrees to advance funds for the additional wastewater treatment capacity necessary to treat the computed wastewater flows from all phases of the Development ("Wastewater Treatment Capacity"). Owner's advance for the Wastewater Treatment Capacity (expressed in terms of year 2000 dollars) is approximately \$2,820,000 as set forth in Exhibit C attached hereto. Owner shall advance those funds to the Company in accordance with the Schedule of Advance Payments attached

hereto as Exhibit D. Interest shall accrue at the rate of twelve percent (12%) per annum on all progress payments which are not timely paid by Owner. All amounts paid by Owner for Wastewater Treatment Capacity shall constitute advances in aid of construction and shall be refundable in accordance with Paragraph II.B below.

2. Additional Facilities.

It is understood by the Owner that the Company may, at its option and in its sole discretion, build or install facilities or require Owner to build or install facilities, larger than those described in Exhibits C and E. The additional cost of those facilities, over and above the cost set forth in Exhibits C and E, shall be borne by the Company or allocated to another development.

3. Engineering Plans and Approvals.

Owner, or Builder, as applicable, shall prepare engineering plans and specifications for the On-Site Wastewater Facilities to be constructed hereunder. All plans and specifications shall be submitted to Company for review and approval, together with a copy of the subdivision plat for the applicable phase of the Development and drawings depicting the On-Site Wastewater Facilities to be constructed. All On-Site Wastewater Facilities shall be designed to comply with the applicable standards and requirements of Company, the Maricopa County Department of Environmental Services ("Environmental Services"), the Arizona Department of Environmental Quality ("ADEQ") and the Commission and other applicable agencies. Company will conduct its review of the engineering plans and

specifications for any On-Site Wastewater Facilities within thirty (30) days after receipt and will provide all comments in writing within such time period. Any subsequent review of any amendments or other changes to the engineering plans and specifications will be completed within fourteen (14) days after receipt, and any comments regarding such amendments will be provided in writing within such time period. If Company is unable to respond in writing within the applicable 30-day or 14-day time period, Company will notify Owner as soon as possible and provide the date by which it will be able to respond. Company will not unreasonably delay or withhold its review or approval of any engineering plans and specifications or any amendments thereto.

4. Construction Standards and Regulatory Approvals.

The On-Site Wastewater Facilities shall be constructed or caused to be constructed by Owner or Builder, as applicable, in conformance with the plans and specifications therefor, the applicable regulations of Environmental Services, ADEQ, the Commission and any other governmental authority having jurisdiction over the design and construction of wastewater collection systems, and in accordance with good utility practice. Prior to the commencement of construction of any On-Site Wastewater Facilities, Owner shall obtain a certificate of approval to construct from Environmental Services, and upon their completion, Owner shall obtain an approval of construction from Environmental Services. Copies of the approval to construct and approval of construction shall be promptly provided to Company.

5. Existing Underground Facilities Responsibility.

As to the facilities constructed by or caused to be constructed by Owner pursuant to this Agreement, Owner shall be responsible for complying with A.R.S. 40-360.21, et seq., and related local regulations, and will assume all costs and liabilities associated with (1) coordination with the owners or agents of all underground facilities within and adjacent to the Development regarding the location of such facilities, and (2) construction near, or damage to, such underground facilities. Owner will conduct, or cause to be conducted, all excavation in a careful and prudent manner in its construction of all facilities subject to this Agreement.

6. Company's Right to Inspect During Construction.

Company shall have the right during construction of the On-Site Wastewater Facilities to inspect the progress of the work performed and to determine whether the work is being performed in accordance with the plans and specifications approved by Company and all agreements between the Parties. If, in Company's reasonable opinion, the work has not been, or is not being, performed in a good and workmanlike manner and in accordance with the plans and specifications approved by Company, Company shall have the right to require Owner or Builder, as applicable, to correct any defects at Owner's cost. Company reserves the right to withhold approval and to prohibit connection of any phase of the On-Site Wastewater Facilities to Company's system unless and until such defective facilities within that phase have been corrected in conformance with the plans and specifications and any applicable regulatory requirements. Proper construction and installation of the On-Site Wastewater Facilities for a

particular phase of the Development, as provided herein, is a condition precedent to Company's obligation to accept the transfer of such facilities for that phase of the Development and to Company's obligation to furnish wastewater utility service to that phase of the development. Company shall complete its final inspection of each phase of the On-Site Wastewater Facilities within fourteen (14) days after written notice of completion from Owner or Builder to Company. Such written notice shall include providing Company with accurate as-built maps describing the exact location of the completed On-Site Wastewater Facilities and the configuration of such facilities within the Development.

7. Transfer of Facilities to Company; Bill of Sale.

Upon the completion of construction and following Company's final inspection, Company shall issue its written acceptance of the completed phase of the On-Site Wastewater Facilities. Upon receipt of Company's written acceptance, Owner, or Builder, as applicable, shall promptly provide Company with a Bill of Sale confirming the transfer of ownership of the completed phase of On-Site Wastewater Facilities to Company. In addition, Owner shall provide Company with a detailed itemization of all amounts paid in connection with the construction of the completed phase of On-Site Wastewater Facilities, together with satisfactory evidence of full and final payment of all amounts due and payable in connection with such construction (or payment bonds in lieu of lien rights in accordance with applicable law). In the Bill of Sale, Owner shall warrant and represent that the completed phase of On-Site Wastewater Facilities (1) has been properly constructed and installed in conformance with the plans and specifications therefor; (2) is free and clear of all liens and encumbrances of any nature;

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and (3) has been inspected and approved by all governmental agencies having jurisdiction over the construction of the facilities. In addition, Owner shall warrant that the completed phase of the On-Site Wastewater Facilities will be free from all defects and deficiencies in construction, materials and workmanship for a period of two (2) years from the date of Company's written acceptance. During the warranty period, Owner agrees to promptly undertake any actions required to repair or correct any defects or deficiencies in construction, materials or workmanship upon receipt of written notice thereof from Company. The foregoing notwithstanding, upon the transfer of any completed phase of On-Site Wastewater Facilities, Owner shall retain no right, title or interest in any such facilities.

8. Easements.

Owner or Builder, as applicable, shall provide to Company satisfactory evidence of easements and right-of-way over, under and across all portions of the main, pipeline and facility routes of the On-Site Wastewater Facilities constructed within the Development that are not located within public streets or rights-of-way as may be necessary in order for Company (1) to serve each parcel or lot within the Development and (2) to operate, maintain and repair the facilities. All easements and rights-of-way shall be free of obstacles which may interfere with Company's use, operation and maintenance of the facilities. The written instrument evidencing the easement or right-of-way shall be in a form reasonably satisfactory to Company.

9. Connecting New Facilities.

The facilities constructed by the Owner pursuant to this Agreement shall not be connected to the Company's existing facilities without the prior written approval of Company, which approval shall not be unreasonably withheld. Nor shall said facilities be operated prior to connection to the Company's facilities. Any such operation may result in either rejection of the facilities by the Company, or extraordinary charges to the Owner to purge the subject facilities prior to acceptance.

10. Invoices

Owner or Builder, as applicable, shall furnish Company, within thirty (30) days after completion of construction, copies of Owner's, subcontractors', vendors' and all others' invoices for all engineering, surveying, and other services, materials installed, construction performed, equipment provided, materials purchased and all else done for construction pursuant to this Agreement at the actual cost thereof.

11. "As-Built" Plans.

Owner shall furnish the Company, within forty-five (45) days after completion of construction, "as-built" drawings showing the locations of all wastewater man holes, lift stations, mains, valves, and service connections to all structures served from facilities which are constructed pursuant to this Agreement. The drawings shall be certified by the Owner's engineer of record and shall be provided on reproducible mylar prints and an electronic file in Autocad format.

13. Reimbursement for Company's Engineering Review, Inspection, Other Necessary Work and Owner's Overhead.

Owner shall reimburse Company for the reasonable fees and expenses incurred by Company in connection with its review of the engineering plans and specifications for all facilities subject to this Agreement and Company's legal fees (which legal fees, together with any other legal fees of Company in connection with this Agreement, shall not exceed \$10,000) (collectively, "Administrative Costs"). On a regular basis (but no more frequently than monthly), Company shall provide Owner with a written

invoice for review of the Administrative Costs incurred by Company since the previous such invoice. Owner or Builder, as applicable, shall also reimburse Company for Company's overhead expenses, including inspection and testing of the On-Site Wastewater Facilities (the "Company's Overhead"). The Company's Overhead shall be equal to six percent (6%) up to \$500,000, then equal to three percent (3%) of the total construction costs of the On-Site Wastewater Facilities. Upon receipt of the itemization of amounts paid for each phase of the On-Site Wastewater Facilities, Company shall provide Owner with a written invoice for the Company's Overhead for that phase of construction of the Off-Site Wastewater Facilities. Payment for both Administrative Costs and Company's Overhead shall be made by Owner on or before thirty (30) days after receipt of written invoice. Interest shall accrue at the rate of twelve percent (12%) per annum on all amounts which are not paid within the foregoing time period.

In addition to the acquisition cost set forth above, Owner shall reimburse Company for the reasonable fees and expenses incurred by Company in connection with its engineering review, inspection, and other fees and expenses related to obtaining the Wastewater Treatment Capacity, including overhead costs (collectively, the "WTC Administrative Costs"). The WTC Administrative Costs shall be equal to two percent (2%) of the total advance by Owner for Wastewater Treatment Capacity. Owner shall pay the WTC Administrative Costs at the time advance payments are due in an amount equal to two percent (2%) of the advance payment. Interest shall accrue at twelve percent (12%) per annum on all amounts which are not timely paid.

C. Commencement of Construction and Time of Completion. It is estimated that the construction schedule for work to be performed under this Agreement shall be as follows:

	<u>Start</u>	<u>Completion</u>
Commercial Phase I On-Site Facilities	4/1/04	6/01/06
Wastewater Treatment Capacity	3/15/01	3/15/02
Wastewater Treatment Capacity est	4/1/06	4/1/07
Phase II		

Failure to meet those estimated dates shall in no way relieve the Owner or Company of any of their obligations under this Agreement.

II.

Advances and Contributions in Aid of Construction; Refund and Repayment Provisions

The Parties agree that it is appropriate that the payments by the Owner to Company under this Agreement shall be characterized in the following manner:

A. On-Site Wastewater Facilities – Non-refundable Contribution in Aid of Construction.

All costs relating to the construction by Owner of the On-Site Wastewater Facilities described in Main Extension Agreements to be entered into by and between the Parties for each phase of the Development shall be considered contributions in aid of construction and shall not be subject to refund.

B. Wastewater Treatment Capacity – Refundable Advance in Aid of Construction.

The amount identified in Exhibit C hereto shall be considered an advance in aid of construction and shall be subject to refund as described in Paragraph III.A., below.

C. Wastewater Infrastructure Additions – Non-refundable Contribution in Aid of Construction.

The costs identified in Exhibit E hereto shall be considered a contribution in aid of construction and shall not be subject to refund.

D. Wastewater Facilities Advance.

The amount paid by Owner for the Wastewater Treatment Capacity pursuant to Paragraph I.B.1. and the WTC Administrative Costs pursuant to Paragraph I.B.13., above, and only those amounts shall constitute the Wastewater Facilities Advance. The Wastewater Facilities Advance shall be refunded to Owner through annual payments (made without interest to Owner) in the amount of ten percent (10%) of Company's total gross annual revenue (exclusive of revenue taxes, connect/reconnect, bad check charges and other similar non-service charges) received from sales of wastewater service to each bona-fide customer in the Development. Such annual payments shall be made by Company on or before August 31st of each year covering refunds due from wastewater service revenues received during the preceding July 1 to June 30 period. Along with the annual payment, Company shall provide an accounting of the annual payments allocable to the Development. No interest shall be paid by the Company on any amounts advanced. For each phase of the Development, the annual payments shall continue to be made by Company to Owner until such time as Owner receives the full

amount of the Wastewater Facilities Advance or for a period of fifteen (15) years from the date on which Company has issued its written notice of acceptance for the On-Site Wastewater facilities constructed within that phase of the Development, whichever occurs first, but in no event shall any refunds be made after twenty (20) years from the date of execution of this Agreement. If the entire Wastewater Facilities Advance has not been refunded to Owner at the end of the payment period for the last phase of the Development, as the case may be, Company's obligation to make such refund payments shall cease and the portion of the advance that was not so refunded shall become non-refundable, in which case the balance not refunded shall be entered as a contribution in aid of construction in the accounts of Company. Company and Owner agree that throughout the term of this Agreement, Company's refund obligation is limited only to the wastewater service revenues referred to above actually received by Company and Owner's right to receive refunds from Company exists only in accordance with the terms of the Agreement and not otherwise. The aggregate refunds hereunder shall in no event exceed the total of the Wastewater Facilities Advance. Company shall have the right to set off against any amount payable to Owner pursuant to this paragraph any amount owing by the Owner to Company under this Agreement.

III. Additional Conditions.

In addition to the general conditions of service set forth under Arizona law and in Company's tariffs and rules and regulations of service, the Parties agree that satisfaction of the following conditions must occur before Company shall have any obligation to perform under this Agreement, including, without limitation, Company's obligation to provide wastewater service to the Development, and except for the payment obligations below, before Owner shall have any obligations to perform under this Agreement:

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A. Water Facilities Agreement.

A water facilities extension agreement shall be executed. The Parties covenant and agree to negotiate and complete such agreement as soon as possible.

B. Agreement with City of Goodyear.

An agreement, which terms and conditions are reasonably acceptable to Company, shall be executed, approved by all agencies having jurisdiction, and in effect between Goodyear and Company wherein additional wastewater treatment capacity is provided.

C. MAG 208 Permits/Approvals.

Company obtains all MAG 208 related permits and approvals for the Palm Valley Water Reclamation Facility.

D. Authority to Serve Development and Additional Property.

Company obtains an extension of its water and wastewater treatment Certificates of Convenience and Necessity to provide water and wastewater treatment utility service to the currently uncertificated portions of Development, and the Company obtains an extension of any County or Municipal Franchise deemed necessary to build the subject facilities or provide the subject service.

E. Timely Payments by Owner.

All payments required to be made by Owner under Paragraphs I.A, I.B.1 and 2, and I.C.13 of this Agreement shall have been timely made to Company.

F. Residential Wastewater Facilities Agreement.

A residential wastewater facilities extension agreement shall be executed. The Parties covenant and agree to negotiate and complete such agreement as soon as possible.

IV.

Risk; Liability; Insurance

A. Risk.

Owner shall carry on all work required hereunder at its own risk until the same is fully completed and accepted by the Company and will, in case of accident, destruction or injury to the work or material before such final completion and acceptance, replace or repair forthwith the work of materials so injured, damaged or destroyed, in accordance with the original approved plans and specifications and to the satisfaction of the Company and at Owner's own expense.

B. Liability.

Owner hereby assumes the entire responsibility and liability for injury or death of any person, or loss for damage to any property contributed to or caused by the active or passive negligence of Owner, its agents, servants, employees, or subcontractors incurred during the course of construction of the facilities. Accordingly, OWNER WILL INDEMNIFY INDEMNITY AND HOLD HARMLESS the Company, its officers, directors, engineers, agents and employees from and against such claims or expenses, including penalties and assessments, to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage, and in case any suit or other proceeding shall be brought on account thereof, Owner will assume the defense at Owner's own expense and will pay all judgments rendered therein. The Company hereby assumes the entire responsibility and liability for injury or death of any person, or loss for damage to any property contributed to or caused by the active or passive negligence of the Company, its agents, servants, employees, or subcontractors incurred during the course of construction of the facilities. Accordingly, THE COMPANY WILL INDEMNIFY AND HOLD HARMLESS Owner, its members and their respective officers, directors, engineers, agents and employees from and against such claims or expenses, including penalties and assessments, to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage, and in case any suit or other proceeding shall be brought on account thereof, the Company will assume the defense at the Company's own expense and will pay all judgments rendered therein.

C. Non-Liability for Loss.

Company shall not be liable for any loss, additional cost or damage incurred by Owner as a result of any delay, action, inaction or failure to perform by any

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employee, agent, contractor, or subcontractor of Company. The foregoing provision is not intended to relieve Company of its obligations as a public service corporation under Arizona law.

D. Insurance.

Owner agrees to produce and maintain all insurances described below, including insurance covering the obligations assumed by Owner under Paragraph A and Paragraph B hereof. Certificates of issuance shall be provided to the Company before the commencement of actual construction.

1. Workmens' compensation in the benefit amounts, and occupational disease disability insurance, as required by the laws and regulations of the state.
2. Commercial general liability insurance, with minimum combined single limits of \$1,000,000.00, and including operations and protective liability coverages. When the work to be performed requires blasting, Owner's insurance shall specifically cover that risk.
3. Comprehensive automobile liability insurance, with minimum combined single limits of \$1,000,000.00, and covering all owned and non-owned automobiles or trucks used by or on behalf of Owner, in connection with the work.

V.

General ProvisionsA. Extension of Company's Certificate of Convenience and Necessity.

Company agrees to file an application for extension of its water and wastewater certificates of convenience and necessity with the Commission on or before forty-five (45) days from the date of execution of this Agreement. Such application shall include the Development, and shall contain the information and documents necessary for the Utilities Division of the Commission to begin to review and process the application when it is filed. Thereafter, Company shall diligently prosecute the application and take such other and further action as may be required in order to obtain a decision approving the extension of Company's certificate as quickly as possible. Owner agrees to support Company's application and cooperate with Company in connection with the proceedings before the Commission relating to such application.

B. Jurisdiction of the Arizona Corporation Commission.

All rights and obligations hereunder, including those regarding wastewater utility service to the Development, shall be subject to the rules and regulations of the Commission and all applicable rates, fees, charges, and tariffs of Company as approved by the Commission now or as they may be changed in the future. However, the provisions for refunds to Owner shall be as set forth herein. Company shall have the unilateral right to apply to the Commission for changes or modifications in any of its rates or charges and to alter or amend its terms and conditions of service and to otherwise charge for its services as may be permitted by the Commission.

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C. Uncontrollable Forces.

Neither Party will be liable to the other Party, nor will Company be liable to Owner's customers or agents, for or on account of any failure, default or delay by a Party in performing any of its obligations under this Agreement, or for or on account of any loss, injury or damage occasioned hereby, other than for the payment of monetary obligations specified in this Agreement, where such failure, default or delay is caused by or results from: (1) an event not within the control of the Party affected and which, by the exercise of reasonable diligence, such Party is unable to prevent or mitigate (such event being "Force Majeure") or (2) compliance with any orders, rules, regulations or determinations, whether valid or invalid, of any governmental authority, agency or municipality (including the City of Goodyear), including but not limited to, administrative, judicial or municipal determinations as to the status or ownership of effluent, emergency wastewater treatment curtailment plans or other environmental determinations not in effect as of the date of execution of this Agreement. Events constituting Force Majeure include: fire, lightning, flood, windstorm, Act of God, invasion, governmental regulations, orders or controls not in effect as of the date of execution of this Agreement, strikes, lockouts or labor disputes, breakdown, repair or replacement of any wastewater treatment plant, lift station, machinery, equipment, transmission line, pipeline or other facility; shortage of any fuel, supplies, material or labor, or where such interruption or failure is directly or indirectly due to any cause not reasonably preventable by the affected Party or not reasonably within its control. The Party's failure, default or delay in performance will be excused only for as long as such cause or event exists and on the condition that performance is recommenced immediately upon cessation of the event of Force Majeure is

present. Each Party shall proceed with diligence to take all commercially reasonable actions necessary to expeditiously cure such event of Force Majeure.

D. Binding Effect; Assignments.

This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns; provided, however, that an assignment or other transfer of the Owner's construction obligations, payment obligations, contributions in aid of construction obligations or other obligations, agreements or covenants hereunder shall not be binding upon Company or create any rights in the assignee until such assignment or other transfer is approved and accepted in writing by Company, which approval shall not be unreasonably withheld. In the event of any such assignment by Owner, the assignee shall agree in writing to assume and fully perform all of Owner's duties and obligations under this Agreement, unless such requirement is expressly waived by Company. Owner further agrees not to assign its Certificate of Assured Water Supply pertaining to the Development (or its application therefor) without first notifying Company of the assignment in writing at least seven (7) days prior to the assignment.

E. Notices.

Any notice required or permitted to be given under this Agreement shall be deemed delivered and be effective on the date physically delivered to the Party to whom notice is being provided or two (2) calendar days following the date on which the notice is deposited in the United States Mail, postage prepaid, certified delivery, and addressed to the Party to whom notice is being provided as follows:

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Company:

LITCHFIELD PARK SERVICE COMPANY
Attention: General Manager
111 West Wigwam Boulevard, Suite B
Litchfield Park, Arizona 85340

Owner:

GLOBE LAND INVESTORS, L.L.C.
Attention: Mr. Ray Carter
6730 North Scottsdale Road, Suite 250
Scottsdale, Arizona 85253
Westcor Partners
Attention: Mr. David Scholl
11411 North Tatum Boulevard
Phoenix, Arizona 85028

Each Party shall promptly provide written notice to the other Party, as provided herein, of any subsequent change of address, and the failure to do so shall preclude any subsequent claim that notice was improperly given hereunder.

F. No Agency Relationship or Third Party Beneficiaries.

Nothing set forth herein shall imply any agency or partnership between Company and Owner, nor shall third persons who are not Parties to this Agreement, including but not limited to Goodyear, or persons who are purchasers of real property from Owner, be entitled to claim that they are third party beneficiaries of the rights and obligations set forth hereunder.

G. Miscellaneous.

This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement, together with the exhibits attached hereto, sets forth the entire agreement between the Parties and supersedes all prior

negotiations, understandings and agreements between them. No change in, addition to, or waiver of any of the provisions of this Agreement shall be binding upon a Party unless in writing and signed by both Parties. Time is of the essence of this Agreement and each and every term contained herein. Each Party irrevocably warrants to the other that it has all applicable power, legal capacity and authority to enter into this Agreement and bind each Party's performance hereunder. In the event further legal documents are reasonably necessary to be executed to carry out the intent of the Parties, each Party agrees to cooperate in securing and signing such additional documents.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their authorized individuals on the day, month and year first above written.

Company:

LITCHFIELD PARK SERVICE COMPANY,
an Arizona corporation

By Daniel W. Ellis

Its _____

Owner:

GLOBE LAND INVESTORS, L.L.C., a
Delaware limited liability company

By Globe Corporation, an Illinois corporation

Its Managing Member

By Raeann R. Hunter

Its Vice President

STATE OF ARIZONA)

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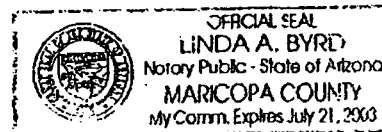
) ss.

County of Maricopa)

The foregoing instrument was acknowledged before me this 5th day of June, 2001 by David W. Ellis, as General Manager of Litchfield Park Service Company, an Arizona corporation on behalf of the corporation.

Linda A. Byrd
Notary Public

My Commission Expires:

July 21, 2003

STATE OF ARIZONA)

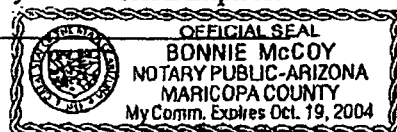
) ss.

County of Maricopa)

The foregoing instrument was acknowledged before me this 1st day of June, 2001 by Raymond H. Carter, the Vice President of Globe Corporation, as Managing Member, of GLOBE LAND INVESTORS, L.L.C., a Delaware limited liability company, for and on behalf thereof.

Bonnie McCoy
Notary Public

My Commission Expires:



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Contract No. 01-_____0

LIST OF EXHIBITS

- A. LEGAL DESCRIPTION OF DEVELOPMENT
- B. PHASES OF THE DEVELOPMENT
- C. WASTEWATER TREATMENT CAPACITY COST ESTIMATE
- D. SCHEDULE OF ADVANCE PAYMENTS
- E. EFFLUENT DELIVERY CONDITIONS

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EXHIBIT A

LEGAL DESCRIPTION OF DEVELOPMENT

LEGAL DESCRIPTION FOR
GOODYEAR P.R.C.
COMMERCIAL PARCELS

That part of Section 32, Township 2 North, Range 1 West, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

PARCEL 1

Beginning at the East Quarter Corner of said Section 32;

Thence South $00^{\circ}13'29''$ West, along the East line of the Southeast Quarter, a distance of 2,639.17 feet to the Southeast Corner of said Section 32;

Thence North $89^{\circ}28'03''$ West, along the South line of the Southeast Quarter, a distance of 2,619.49 feet to the South Quarter Corner of said Section 32;

Thence North $89^{\circ}27'45''$ West, along the South line of the Southwest Quarter, a distance of 2,619.39 feet to the Southwest Corner of said Section 32;

Thence North $00^{\circ}20'32''$ East, along the West line of the Southwest Quarter, a distance of 1,921.93 feet to a point on the Easterly right-of-way line of the Roosevelt Irrigation District Canal, as established by State of Arizona Patent #2568 through #2570;

Thence along the Easterly right-of-way line of the Roosevelt Irrigation District Canal the following courses:

Thence North $23^{\circ}57'32''$ East, a distance of 545.53 feet to the beginning of a tangent curve of 1,492.40 foot radius, concave Northwesterly;

Thence Northeasterly, along said curve, through a central angle of $12^{\circ}46'08''$, a distance of 332.59 feet;

Thence South $89^{\circ}39'26''$ East, departing said Easterly right-of-way line, a distance of 978.50 feet;

Thence North $00^{\circ}20'34''$ East, a distance of 345.66 feet;

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Thence North 40°54'50" East, a distance of 1,061.52 feet to a point on a 2,600.00 foot radius non-tangent curve, whose center bears South 13°22'07" West;

Thence Southeasterly, along said curve, through a central angle of 19°33'20", a distance of 887.40 feet;

Thence South 57°04'33" East, a distance of 1,017.93 feet to the beginning of a tangent curve of 2,400.00 foot radius, concave Northeasterly;

Thence Southeasterly, along said curve, through a central angle of 32°22'00", a distance of 1,355.78 feet to a point on the East West mid-section line of said Section 32;

Thence South 89°26'34" East, along the East West mid-section line, a distance of 292.45 feet to the Point of Beginning.

Containing 367.685 Acres, more or less.

PARCEL 2

Commencing at the Northwest Corner of said Section 32;

Thence South 00°20'34" West, along the West line of the Northwest Quarter of said Section 32, a distance of 1,324.92 feet to the True Point of Beginning;

Thence South 89°39'26" East, a distance of 359.42 feet to a point on the Westerly right-of-way line of the Roosevelt Irrigation District Canal, as established by State of Arizona Patent #2568 through #2570;

Thence South 06°50'32" West, along said Westerly right-of-way line of the Roosevelt Irrigation District Canal, a distance of 207.35 feet;

Thence North 89°39'26" West, a distance of 335.94 feet to a point on the West line of the Northwest Quarter of said Section 32;

Thence North 00°20'34" East, along said West line of the Northwest Quarter, a distance of 206.02 feet to the True Point of Beginning.

Containing 1.644 Acres, more or less.

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Contract No. 01-_____0

EXHIBIT B

PHASES OF THE DEVELOPMENT

PHASE	TYPE OF DEVELOPMENT
PHASE I	Commercial 30 acres
PHASE II	Commercial 270 acres including Regional Mall

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EXHIBIT CII. WASTEWATER TREATMENT CAPACITY COST ESTIMATE

The \$2,820,000 amount represents the costs to provide capacity @ either a LPSCo WWTP site or capacity rights in the City of Goodyear's 157th Avenue wastewater plant to accommodate an anticipated flow of approximately 600,000 gallons per day of the Development's influent. The above charge shall be increased by 2% for the Company's overhead and inspection.

TOTAL CAPACITY COST Phase I	\$282,000
(30 Ac X 2000 gallons X \$4.70)	
WTC ADMINISTRATIVE COST (2%)	<u>\$ 5,640</u>
Sub total Phase I	\$287,640

TOTAL CAPACITY COST PHASE II	\$2,538,000 (or additional capacity cost (whichever is higher))
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(270 Ac X 2000 gallons X \$4.70)	
WTC ADMINISTRATIVE COST (2%)	<u>\$ 50,760</u>
Subtotal Phase II	<u>\$2,588,760</u>

TOTAL	\$2,876,400
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EXHIBIT D**SCHEDULE OF ADVANCE PAYMENTS¹**

<u>EVENT</u>	<u>PERCENTAGE OF TOTAL</u>	<u>PROGRESS PAYMENT</u>	
Phase I Plant			
Signing of Contract	20%	\$56,400	
45 days after signing agreement	20%	\$56,400	
90 days after signing agreement.	25%	\$70,500	
150 days after signing agreement.	20%	\$56,400	
210 days after signing agreement	10%	\$28,200	
300 days after signing agreement.	5%	\$14,100	
Total		\$282,000	
Phase II Plant			
Start of Construction of Phase II of plant	100%	\$2,538,000 or Additional Capacity Cost (whichever is higher).	

¹ Does not include 2% overhead charge.

EXHIBIT EEFFLUENT DELIVERY CONDITIONS

LPSCO agrees to return to Globe Land Investors, L.L.C. Investors up to 90% of the influent delivered to the LPSCO system subject to the following conditions:

- LPSCO estimates (not meters) the influent received.
- Effluent delivery will be on an as and when available basis, with LPSCO's best efforts delivery.
- Adequate delivery system must be installed by Globe Land Investors, L.L.C. under the same conditions as other plant, and approved by LPSCO.
- There will be seasonal, daily, and hourly fluctuations and storage may be required.
- Delivery will have to be coordinated with the needs/requirements of other customers.
- Effluent delivered will be charged a "market rate" or other rates as approved by the Arizona Corporation Commission.
- Globe Land Investors, L.L.C. will provide metering required to measure the amount of effluent delivered to the development.
- Globe Land Investors, L.L.C. assumes all liability and responsibility for the proper care, safeguarding, and use of the effluent after delivery to its system.

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